



Sen. Laura Ellman

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10300HB2217sam001

LRB103 25346 LNS 61877 a

1 AMENDMENT TO HOUSE BILL 2217

2 AMENDMENT NO. _____. Amend House Bill 2217 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Radon Awareness Act is amended by
5 changing Sections 5 and 20 and by adding Sections 26, 30, and
6 35 as follows:

7 (420 ILCS 46/5)

8 Sec. 5. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 ~~(a)~~ "Agent" means a licensed real estate "broker" or
11 "salesperson", as those terms are defined in Section 1-10 of
12 the Real Estate License Act of 2000, acting on behalf of a
13 seller or buyer of residential real property.

14 ~~(b)~~ "Buyer" means any individual, partnership,
15 corporation, or trustee entering into an agreement to purchase
16 any estate or interest in real property.

1 "Dwelling unit" means a room or suite of rooms used for
2 human habitation. "Dwelling unit" includes a mobile home, a
3 single family residence, each living unit in a multiple family
4 residence, and each living unit in a mixed use building.

5 ~~(c)~~ "Final settlement" means the time at which the parties
6 have signed and delivered all papers and consideration to
7 convey title to the estate or interest in the residential real
8 property being conveyed.

9 "Lease" means an oral or written agreement under which a
10 lessor allows a tenant to use the property for a specified rent
11 and period of time.

12 "Lessor" means any person or entity that leases a dwelling
13 unit to a tenant. "Lessor" includes, but is not limited to, an
14 individual, company, corporation, firm, group, association,
15 partnership, joint venture, trust, government agency, or
16 subdivision thereof.

17 ~~(d)~~ "IEMA" means the Illinois Emergency Management Agency
18 Division of Nuclear Safety.

19 ~~(e)~~ "Mitigation" means measures designed to permanently
20 reduce indoor radon concentrations according to procedures
21 described in 32 Illinois Administrative Code Part 422.

22 "Mobile home" has the meaning given to that term in
23 Section 10 of the Manufactured Home Quality Assurance Act.

24 "Radon" means a gaseous radioactive decay product of
25 uranium or thorium.

26 "Radon contractor" means a person licensed under the Radon

1 Industry Licensing Act to perform radon mitigation or
2 measurement in an indoor atmosphere.

3 ~~(f)~~ "Radon hazard" means exposure to indoor radon
4 concentrations at or in excess of the United States
5 Environmental Protection Agency's, or IEMA's recommended Radon
6 Action Level.

7 ~~(g)~~ "Radon test" means a measurement of indoor radon
8 concentrations in accordance with 32 Illinois Administrative
9 Code Part 422 for performing radon measurements ~~within the~~
10 ~~context of a residential real property transaction.~~

11 ~~(h)~~ "Residential real property" means any estate or
12 interest in a manufactured housing lot or a parcel of real
13 property, improved with not less than one nor more than 4
14 residential dwelling units.

15 ~~(i)~~ "Seller" means any individual, partnership,
16 corporation, or trustee transferring residential real property
17 in return for consideration.

18 "Tenant" means a person who has entered into an oral or
19 written lease with a lessor to lease a dwelling unit.

20 (Source: P.A. 95-210, eff. 1-1-08.)

21 (420 ILCS 46/20)

22 Sec. 20. Exclusions. The provisions of this Act do not
23 apply to the following:

24 (1) Transfers pursuant to court order, including, but
25 not limited to, transfers ordered by a probate court in

1 administration of an estate, transfers between spouses
2 resulting from a judgment of dissolution of marriage or
3 legal separation, transfers pursuant to an order of
4 possession, transfers by a trustee in bankruptcy,
5 transfers by eminent domain, and transfers resulting from
6 a decree for specific performance.

7 (2) Transfers from a mortgagor to a mortgagee by deed
8 in lieu of foreclosure or consent judgment, transfer by
9 judicial deed issued pursuant to a foreclosure sale to the
10 successful bidder or the assignee of a certificate of
11 sale, transfer by a collateral assignment of a beneficial
12 interest of a land trust, or a transfer by a mortgagee or a
13 successor in interest to the mortgagee's secured position
14 or a beneficiary under a deed in trust who has acquired the
15 real property by deed in lieu of foreclosure, consent
16 judgment or judicial deed issued pursuant to a foreclosure
17 sale.

18 (3) Transfers by a fiduciary in the course of the
19 administration of a decedent's estate, guardianship,
20 conservatorship, or trust.

21 (4) Transfers from one co-owner to one or more other
22 co-owners.

23 (5) Transfers pursuant to testate or intestate
24 succession.

25 (6) Transfers made to a spouse, or to a person or
26 persons in the lineal line of consanguinity of one or more

1 of the sellers.

2 (7) Transfers from an entity that has taken title to
3 residential real property from a seller for the purpose of
4 assisting in the relocation of the seller, so long as the
5 entity makes available to all prospective buyers a copy of
6 the disclosure form furnished to the entity by the seller.

7 (8) Transfers to or from any governmental entity.

8 (9) Transfers of any residential dwelling unit located
9 on the third story or higher above ground level of any
10 structure or building, including, but not limited to,
11 condominium units and dwelling units in a residential
12 cooperative.

13 As used in this Section, "transfers" includes any legal
14 transfer of possession of property, including purchases and
15 leases.

16 (Source: P.A. 95-210, eff. 1-1-08; 96-278, eff. 8-11-09.)

17 (420 ILCS 46/26 new)

18 Sec. 26. Disclosure of radon hazard to current and
19 prospective tenants.

20 (a) At the time of a prospective tenant's application to
21 lease a dwelling unit, before a lease is entered into, or at
22 any time during the leasing period, upon request, the lessor
23 shall provide the prospective tenant or tenant of a dwelling
24 unit with:

25 (1) the Illinois Emergency Management Agency pamphlet

1 entitled "Radon Guide for Tenants" or an equivalent
2 pamphlet approved for use by the Illinois Emergency
3 Management Agency;

4 (2) copies of any records or reports pertaining to
5 radon concentrations within the dwelling unit that
6 indicate a radon hazard to the tenant, as provided in
7 subsection (c); and

8 (3) the Disclosure of Information on Radon Hazards to
9 Tenants form, as set forth in subsection (f).

10 (b) At the commencement of the agreed leasing period, a
11 tenant shall have 90 days to conduct his or her own radon test
12 of the dwelling unit. If the tenant chooses to have a radon
13 test performed, the tenant shall provide the lessor with
14 copies of the results, including any records or reports
15 pertaining to radon concentrations, within 10 days after
16 receiving the results of the radon test.

17 (1) Nothing in this subsection is intended to or shall
18 be construed to imply that a tenant is not permitted to
19 conduct a radon test of unit following the completion of
20 the 90-day period. Following the 90-day period the tenant
21 may conduct further radon testing if he or she elects to;
22 however, upon a result of a radon hazard, he or she does
23 not have a right to terminate the lease under this
24 Section.

25 (2) Nothing in this subsection is intended to or shall
26 be construed to imply that a tenant waives any other right

1 to terminate the lease if he or she conducts a radon test
2 after the completion of the 90-day period under any other
3 applicable State or federal law.

4 (c) If the tenant elects to conduct a radon test during the
5 90-day period and the results indicate a radon hazard, the
6 lessor may hire a radon contractor to perform an additional
7 radon test within 30 days after the tenant notifies the lessor
8 of the results of his or her radon test. The results of a
9 measurement by a radon contract may be used by the lessor to
10 disprove the presence of a radon hazard. Test results are
11 valid for a period of 2 years after the date of the testing
12 unless any renovations, additions, or modifications are made
13 to the building containing the dwelling unit.

14 (d) Nothing in this Section is intended to or shall be
15 construed to imply an obligation of a lessor or tenant to
16 conduct any radon testing activity or perform any radon
17 mitigation activity.

18 (e) If a lessor fails to provide the prospective tenant or
19 tenant with the documents as required in subsection (a), then,
20 at any point during the term of the lease the tenant may elect
21 to have a radon test conducted under this Section. If the radon
22 test shows the existence of a radon hazard, the tenant shall
23 provide the lessor with copies of the results of the test,
24 including records or reports pertaining to radon
25 concentrations, within 10 days after receiving the results of
26 the radon test. If the lessor disputes the results of the radon

1 test performed by the tenant, the lessor may elect, at the
2 lessor's expense, to hire a radon contractor to perform a
3 radon test within 30 days of the tenant notifying the lessor of
4 the results of the tenant's radon test. The results of a
5 measurement by a radon contract may be used by the lessor to
6 disprove the presence of a radon hazard. Test results are
7 valid for a period of 2 years after the date of testing unless
8 any renovation, addition, or substantial modifications are
9 made to the building containing the dwelling unit. If the
10 lessor declines to dispute the results of the tenant's radon
11 test showing a radon hazard or does not mitigate the hazard,
12 the tenant may, within 60 days:

13 (1) hire, at the tenant's expense, a radon contractor
14 to perform radon mitigation activities. If the tenant
15 chooses to conduct mitigation activities, the mitigation
16 activities shall only be done with express consent of the
17 lessor; or

18 (2) terminate the lease.

19 (f) The following Disclosure of Information on Radon
20 Hazards to Tenants shall be provided to each tenant of a
21 dwelling unit:

22 "DISCLOSURE OF INFORMATION ON RADON HAZARDS TO TENANTS

23 Radon Warning Statement

24 Each tenant in this residence or dwelling unit is notified

1 that the property may present exposure to levels of indoor
2 radon gas that may place the occupants at risk of developing
3 radon-induced lung cancer. Radon, a Class-A human carcinogen,
4 is the leading cause of death in private homes and the leading
5 cause of lung cancer in nonsmokers. The lessor of any
6 residence is required to provide each tenant with any
7 information on radon test results of the dwelling unit that
8 present a radon hazard to the tenant.

9 The Illinois Emergency Management Agency (IEMA) strongly
10 recommends that ALL rental properties have a radon test
11 performed and radon hazards mitigated if elevated levels are
12 found in a dwelling unit or a routinely occupied area of a
13 multiple family residence. Elevated radon concentrations can
14 easily be reduced by a radon contractor.

15 Dwelling Unit Address:

16 Lessor's Disclosure (initial each of the following that
17 apply)

18 Lessor has no knowledge of elevated radon
19 concentrations (or records or reports pertaining to elevated
20 radon concentrations) in the dwelling unit.

21 Radon concentrations (at or above the IEMA
22 recommended Radon Action Level 4.0 pCi/L) are known to be
23 present within the dwelling unit.

24 Lessor has provided the tenant with copies of all

1 available records and reports, if any, pertaining to radon
2 concentrations within the dwelling unit.

3 Tenant's Acknowledgment (initial each of the following
4 that apply)

5 Tenant has received copies of all information listed
6 above.

7 Tenant has received the pamphlet "Radon Guide for
8 Tenants".

9 Certification of Accuracy

10 The following parties have reviewed the information above
11 and each party certifies, to the best of his or her knowledge,
12 that the information he or she provided is true and accurate.

13 Lessor Date

14 Tenant Date"

15 (g) This Section applies to leases entered into on or
16 after the effective date of this amendatory Act of the 103rd
17 General Assembly.

18 (420 ILCS 46/30 new)

19 Sec. 30. Mitigation of radon hazards.

20 (a) A lessor who decides to have radon mitigation
21 performed shall have the radon mitigation system installed by
22 a radon contractor.

1 (b) A tenant who decides to have radon mitigation
2 performed shall have the radon mitigation system installed by
3 a radon contractor and shall have the lessor's express consent
4 prior to undertaking any mitigation activities. If the tenant
5 receives express consent from the lessor, the tenant may
6 deduct the cost of installation of the radon mitigation system
7 from tenant's rent. This deduction shall be divided in equal
8 parts for the remainder of the leasing period.

9 (c) A lessor of a dwelling unit vacated by a tenant under
10 subsection (e) of Section 26 who has received a security
11 deposit from a tenant to secure the payment of rent or to
12 compensate for damage to the leased property may not withhold
13 any part of that security deposit as compensation for radon
14 testing or mitigation activities. However, the lessor may
15 withhold part of the security deposit if the tenant had a
16 mitigation system installed without the lessor's consent and
17 the system was not properly installed by a radon contractor.
18 An itemized statement must be provided to the tenant if any
19 part of the security deposit is withheld.

20 (d) This Section applies to leases entered into on or
21 after the effective date of this amendatory Act of the 103rd
22 General Assembly.

23 (420 ILCS 46/35 new)

24 Sec. 35. Home rule. A home rule unit may not regulate lease
25 agreements or tenant rights in a manner that is inconsistent

1 with the regulation of lease agreements and tenant rights
2 under this Act. This Section is a limitation under subsection
3 (i) of Section 6 of Article VII of the Illinois Constitution on
4 the concurrent exercise by home rule units of powers and
5 functions exercised by the State.

6 (420 ILCS 46/25 rep.)

7 Section 10. The Illinois Radon Awareness Act is amended by
8 repealing Section 25."